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**CENTRAL FAX CENTER**

**APR 08 2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(Docket No. 404980)

In re the Application of:	)	<b>Customer No. 27717</b>
	)	
Chauncy W. Griswold	)	
	)	<b>Art Unit: 3714</b>
Serial No.: 10/084,820	)	
	)	
Filed: February 27, 2002	)	<b>Examiner: Boris Savic</b>
	)	
For: CONTACTLESS CARD READER IN	)	
A GAMING MACHINE	)	

TO: MAIL STOP: Appeal Brief-Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**REPLY BRIEF**

Dear Sir:

This is in response to the Examiner's Answer mailed February 28, 2008.

**I. THE EXAMINER'S ANSWER DOES NOT SUPPORT THE REJECTIONS**

Pages 3-9 of the Examiner's Answer contain the Examiner's "Grounds of Rejection" which for the claims on appeal are identical to the "Claim Rejections" in the final rejection mailed February 21, 2007, pp. 2-8. There are no new grounds of rejection.

Appellant's main brief discusses why the Examiner's Grounds of Rejection are clearly erroneous and should be reversed. The Examiner has purported to respond to Appellant's arguments on pages 9-14 of the Examiner's Answer. These responses do not overcome Appellant's arguments. Specifically, with respect to the Examiner's responses, Appellant states as follows:

The Examiner contends that one of ordinary skill in the art would have combined the use of a contactless card and biometrics based upon Walker et al. and Orus.

Walker et al. does not disclose a contactless card. Walker et al. discloses the use of a player tracking card ***which is inserted into*** a player card tracking device. Walker discloses that the need for a player to carry a player identification card can be eliminated by measuring player biometrics. It could not be clearer that Walker teaches away from using both a player identification card and measuring biometrics. Walker expressly states that the reason for measuring biometrics is to eliminate the need for the player to carry a card. See column 6, lines 39-61.

Thus in addition to Walker having no disclosure whatsoever with respect to a contactless card, even Walker's card, which is inserted into a reader, is said by Walker ***to be an alternative*** to the use of biometrics.

The secondary reference to Orus discloses a contactless card but there is no disclosure, teaching or suggestion of the use of biometrics.

Considering the foregoing, it is clearly erroneous for the Examiner to contend that one of ordinary skill in the art would have combined the use of a contactless card and biometrics based upon Walker et al. and Orus, which teach away from it.

In his discussion of his rejection of claims 4, 6-8, 19-20, 26 and 31 on pages 10-12 of the Examiner's Answer, the Examiner speculates what one of ordinary skill in the art would have implemented. This speculation by the Examiner is based upon hindsight and tortured reasoning. It is certainly not based on anything from the references themselves, which teach away from the use of biometrics combined with a non-contactless card. It is apparent that the Examiner has read Appellant's disclosure and

claims, and has provided a scenario that does not exist in the prior art. The Examiner admits that the prior art references lack certain disclosure but contends that it would be better to enhance them in a manner that falls within Appellant's claims. But when Walker et al. discloses using a contact-type card or, alternatively biometrics if the contact-like card is not to be used, this cannot be properly be parlayed into the disclosure of a combined contactless card with biometrics.

On page 11, the Examiner states that a player tracking card (such as disclosed in Walker et al.) may not provide enough security. The Examiner then refers to the use of a personal identification number (PIN) that is required in addition to possession of a card. This is taught by Walker et al. in column 6, lines 47-49. The Examiner then implies that one of ordinary skill would have recognized the usefulness of combining two identification methods and thus the Examiner speculates that these two identification methods could be the player identification card and biometrics. Again, while Walker et al. discloses a player identification card (which is a contact-type card) combined with the use of a PIN, Walker et al. specifically uses biometrics as an alternative to this, for use ***when it is not desired to have a card***. The Examiner's speculation is improper and the rejection should be reversed.

On pages 12-13 of the Examiner's Answer, the Examiner refers to his rejection of claims 3, 32-37 and 40-42. These claims add the limitation of the physical actuation (claim 3) or manual actuation (claim 32) of the gaming machine as a separate step to activate the machine, in combination with the other claim limitations. This separate physical or manual actuation eliminates the accidental actuation of the machine when a player with a non-contact card is close to the machine, without intending to play.

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The Examiner has not found any reference which teaches this claimed invention. Without applying any reference which discloses a non-contact card with a separate physical or manual actuation step, the Examiner again uses speculation and hindsight to effectively hold that because it is such a useful invention it "would have been readily apparent to anyone of ordinary skill in the art." The Examiner has overlooked the fact that the Orus reference discloses a non-contact card without a separate actuation of the gaming machine as a separate step to activate the machine. It is improper for the Examiner to effectively state that because this invention is so useful, it would have been obvious notwithstanding the fact that it is not taught by any combination of prior art references.

Thus the invention of claims 3, 32-37 and 40-42 requires, among other things, a contactless card, biometric sensing as separate personal identification, and either physical actuation (claim 3) or manual actuation (claim 32) of the gaming machine as a separate step to activate the machine. While Appellant agrees with the Examiner that this invention is extremely useful and effective, it is submitted that such usefulness and effectiveness does not warrant the conclusion based on speculation that it would have been obvious to one having ordinary skill in the art.

## **II. CONCLUSION**

For the reasons set for in the main brief and this reply brief, reversal of the Examiner's rejections is warranted and is requested.

Respectfully submitted,

SEYFARTH SHAW LLP

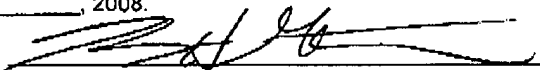


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Registered Attorney for Applicant  
Date: April 8, 2008